IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

WEDNESDAY, THE 18TH JULY 2007 / 27TH ASHADHA 1929

WP(C).No. 17667 of 2007(C)

PETITIONER:

BEE BEE INDUSTRIAL SOCIETY,
REGISTERED UNDER THE TRAVANCORE COCHIN LITERARY SCIENTIFIC AND CHARITABLE SOCIETIES AND REGISTRATION ACT, 1955, REP. BY ITS CHAIRMAN, K.V.THOMAS, REGD. OFFICE AT ERTHU VADAKARA P.O., MANIMALA.

BY ADV. SRI.K.T.SHYAMKUMAR

RESPONDENTS:

1. DISTRICT COLLECTOR,
KOTTAYAM, COLLECTORATE P.O., KOTTAYAM.

2. TAHSILDAR,
CHANGANACHERRY TALUK, TALUK OFFICE,
CHANGANACHERRY, KOTTAYAM DISTRICT.

3. VELLAVOOR GRAMA PANCHAYAT,
REPRESENTED BY THE SECRETARY,
OFFICE OF THE VELLAVOOR GRAMA PANCHAYAT,
VELLAVOOR, MANIMALA, KOTTAYAM DISTRICT.

4. STATE OF KERALA, REPRESENTED BY
THE SECRETARY TO THE REVENUE DEPARTMENT,
SECRETARIAT, THIRUVANANTHAPURAM.

BY ADV. SRI.S.SREEKUMAR
G.P. SHRI.M.R.SABU.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 18/07/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P(C).No. 17667/07.

APPENDIX

PETITIONER'S EXHIBITS:

P1. COPY OF THE CERTIFICATE NO.235/81 BY THE SOCIETIES REGISTRAR.

P2. CO SALE DEED NO.236/82.

P3. COPY OF THE PLAN.

P4. COPY OF THE SURVEY PLAN.

P5. COPY OF THE SALE DEED NO.1139/06OF THE SRO KARUKACHAL.

P6. COPY OF THE NOTICE DTD.24.5.07 issued BY ALO, CHANGRY.

P7. COPY OF THE CERTIFICATE OF REGISTRATION DTD.21.1.92.

Sdk+

///True copy///

P.A. to Judge.

S.SIRI JAGAN, J.

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W.P.(C).No.17667 of 2007

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Dated this the 18th day of July, 2007

J U D G M E N T

The petitioner challenges Ext.P10 notice issued to the petitioner's son directing vacating of the properties mentioned in Ext.P10. According to the petitioner, properties belong to him. He further submits that he has not encroached into any Government land and hence no proceedings for eviction can be taken against him. His further contention is that before issuing Ext.P10, no show-cause notice was issued to him, neither was any opportunity of being heard offered to him.

2. I have heard learned counsel for the petitioner, learned Government Pleader and the learned Standing Counsel appearing for the 3rd respondent.

3. The respondents could not satisfy me that Ext.P10 has been issued after complying with the principles of natural justice and the provisions of the Kerala Land Conservancy Act, and after a hearing. Ext.P10 also does not contain any reasons as to why the emergency provisions under the Kerala Land Conservancy Act

should be invoked. As such, I am satisfied that Ext.P10 has been issued in violation of the principles of natural justice and the provisions of the Kerala Land Conservancy Act and Rules. However, if Ext.P10 is considered as a show-cause notice, it may not be necessary to quash the same. Accordingly, the writ petition is writ petition is disposed of as follows:

The 2nd respondent shall treat Ext.P10 as a show-cause notice directing the petitioner to show-cause as to why the petitioner should not be evicted from the property in question and the petitioner shall file his objections within two weeks from today. The 2nd respondent shall thereafter consider the matter after affording an opportunity of being heard to the petitioner which shall include opportunity to adduce evidence also. Pursuant thereto, the 2nd respondent shall pass a speaking order dealing with the contentions of the petitioner and the evidence adduced by him. Till orders thus passed are communicated to the petitioner and till 7 days thereafter, the petitioner shall not evicted from the property in question.

Sd/-

sdk+ S.SIRI JAGAN, JUDGE

///True copy///

P.A. to Judge.